

*CB*  
to each other so that the length of said strap is selectively adjustable by a user; and wherein said mounting strap is releasably securable to said boot-engaging strap member by at least one fastener which extends through at least one of a plurality of holes disposed in at least one of said boot-engaging strap member and said mounting strap.

56. (Amended) A binding strap for securing a snowboarding boot within a binding base, the binding strap being mountable to the base and releasably connectable to an engagement strap extending from the base, the binding strap comprising:

*CA*  
a boot-engaging strap member configured and arranged to be releasably connected to the engagement strap and to secure the snowboarding boot to the binding;

a mounting strap having a first section releasably securable to said boot-engaging strap member and a second section configured and arranged to engage the binding base; and

at least two engagement elements to engage the mounting strap with the boot-engaging strap;

wherein said boot-engaging strap member and said mounting strap are moveable relative to each other so that the length of said binding strap is selectively adjustable by a user, at least one of said boot-engaging strap member and said mounting strap having a plurality of adjustment holes, each hole being adapted to receive one of the at least two engagement elements therethrough to adjustably engage the first section of said mounting strap with said boot-engaging strap member.

#### REMARKS

Claims 1-29 and 36-50 and 56-85 are pending in the application. By this amendment, Applicants are amending claims 1, 13, 23, and 56. New claim 86 has been added. As a result, claims 1-29, 36-50, and 56-86 are pending for examination with claims 1, 13, 23, 36, 56, 70 and 85 are independent claims. No new matter has been added.

#### Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 36-50 are allowed. Applicants also note that claims 4, 16, 25, 29, 58, 59, 61, 66, 72, 73 and 81 are objected to as being dependent upon a

rejected independent claim, but would be allowable if rewritten in independent form. However, Applicants have not re-written these claims because Applicants believe that the claims from which the allowable claims depend are also allowable.

Rejection Under 35 U.S.C. § 102

Claims 1, 2, 5-8, 10, 11, 13, 14, 17-20, 22 and 85 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hansen et al. (U.S. patent 5,918,897). This rejection is traversed.

Independent Claims 1 and 13

As amended, independent claim 1 recites that the connection between the engagement strap and the flexible binding strap member be used “to adjustably tighten the binding about the boot when the boot is in the binding”. As amended, claim 13 recites that the connection between the flexible strap member and the engagement strap be used “to adjust the relative positions of the flexible strap member and the engagement strap and to conform at least the flexible strap member to a portion of the surface of the snowboard boot.”

Applicants respectfully submit that Hansen does not anticipate claims 1 and 13 as amended. In the Office Action, the instep element 5 and guide loop 10 of Hansen are characterized as the binding strap because the guide loop 10 forms a pocket on the instep element 5. Therefore, the instep straps 8, 9 and connecting loop 11 represent the mounting strap of claims 1 and 13 because they are inserted into the pocket. As a result of this characterization, the strap loops 29, 30 represent the engagement strap of claims 1 and 13 because they are connected to the binding strap 5, 10 by virtue of being pinned to the baseplate at the same points 12, 13. Given this interpretation, Hansen does not anticipate claims 1 and 13. As can be seen from Figure 4 of Hansen, the screws 12, 13 which attach the binding strap 5, 10 to the engagement strap 29, 30 of Hansen do not allow adjusting the tension of the binding strap about a boot in the binding. Because the screws 12, 13 attach both the binding strap and the engagement strap to the baseplate at the same points, the connection between the binding strap and engagement strap cannot be used for adjusting the pressure of the binding about a boot. The screws can be fastened and unfastened, but that would result in disassembling, not loosening, the binding. In fact, Hansen is directed toward a snowboard binding whose “instep element forms a stationary tunnel and need not be moved during the closure process.” (column 2, lines 42-43). A user of the Hansen binding would place a snowboarding boot into the presized instep element and secure the binding by rotating the heel portion 14 up into the position shown in Figure 2.

Unlike Hansen, the present invention contemplates a binding in which the boot is placed into the binding and then the engagement strap is tightened. As stated in the specification, “serrated strap 40 matingly engages slap ratchet 38 for incremental adjustment of binding strap 12 about the ankle section 18.” (page 7, lines 31-32). Additionally, the specification states that after positioning the binding strap over the boot, “the ankle and toe sections are further secured and incrementally adjusted about boot 11 by utilizing slap ratchet buckle 38 and ratcheting buckle 60, respectively.... A rider can, therefore, readily tighten or loosen the pressure exerted by either ankle section 18 or toe section 22, or both.” (page 12, lines 18-21). Thus, the specification as originally filed stated that the engagement strap is connected to the strap member in such a way that a user can tighten the strap around a boot. Applicants therefore respectfully submit that amended claims 1 and 13 patentably distinguish over Hansen because of the recited adjustable connection and request that the rejection of these claims under §102(e) be withdrawn. The claims depending from claims 1 and 13 are patentable for at least the same reasons.

#### Independent claim 85

Applicants respectfully submit that independent claim 85 is also not anticipated by Hansen. Applicants presume that the instep element 5 and guide loop 10 of Hansen are characterized as the first strap piece, and the instep straps 8, 9 and connecting loop 11 are characterized as the second strap piece because, according to claim 85, “an end of the second strap piece [is] inserted through a portion of the first strap piece.” Given this interpretation, Applicants respectfully submit that Hansen does not teach that “one of the first and second strap pieces has a plurality of mating features adapted to engage with a corresponding mating feature on the other of the first and second strap pieces to enable the first and second strap pieces to be secured against any relative lengthwise movement in a plurality of engagement positions.”

Applicants submit that there are only two pairs of elements which can qualify as the plurality of mating features required by claim 85: the screws 12, 13 and the strap buckles 27, 28. If the screws 12, 13 are considered the mating features, Applicants submit that the first and second strap pieces do not contain “a plurality of mating features adapted to engage with a corresponding mating feature on the other of the first and second strap pieces.” The screws 12, 13 which engage with the first strap piece do not engage with the second strap piece because the first and second strap pieces are attached to opposite sides of the baseplate. Furthermore, claim 85 requires that the first and second strap pieces be securable “in a plurality of engagement positions.” The screws 12, 13 have a single engagement position because there is a single set of holes in each of the pieces through which the

screws 12, 13 fit. Thus, the screws 12, 13 would fail to meet all the limitations of claim 85 if they were characterized as the mating features.

If the buckles are characterized as the plurality of mating features, the draw plate 7', strap loops 29, 30, and strap buckles 27, 28 would have to be characterized as parts of the first strap piece so that "one of the first and second strap pieces has a plurality of mating features adapted to engage with a corresponding mating feature on the other of the first and second strap pieces." In other words, the strap buckles would have to be characterized as part of the first strap piece. However, claim 85 additionally requires that the first and second strap pieces be "secured against any relative lengthwise movement." In contrast, as specifically recited in Hansen, a user pulls on loop 11 in order to tighten the binding of Hansen and lifts buckles 27, 28 in order to loosen the binding. Either action is *intended* to create relative lengthwise movement between the first strap piece and the second strap piece in order to tighten or loosen the instep portion. Thus, Applicants respectfully submit that Hansen does not anticipate claim 85, and request that this rejection be withdrawn.

#### Rejection Under 35 U.S.C. § 103

Claims 3, 15, 23, 24, 26, 27, 28, 56, 57, 60, 62-65, 67-71, 74-80, and 82-84 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen et al. (U.S. 5,918,897) in view of U.S. patent 2,531,763 to Andre (hereafter Andre). Specifically, the Office Action states that Hansen contained all of the elements of the rejected claims except a closure mechanism that includes a plurality of apertures and a mating fastener. Thus, Andre is relied upon to teach a mounting system which includes a first strap portion, apertures, and a mating fastener which may removably engage the apertures. The Office Action concludes that it would have been obvious to one of ordinary skill in the art to replace the strap and associated mating elements of Hansen with a fastener which releasably engages one of a plurality of apertures positioned on the strap portion as taught by Andre in order to obtain individual adjustment of the straps and reproducible levels of strap engagement. This rejection is traversed.

Applicants respectfully submit that to substitute the fastener of Andre in the binding of Hansen as proposed in the Office Action would frustrate the purpose of Hansen. If the modification renders the prior art invention unsatisfactory for its intended purpose, there is no suggestion or motivation to make the proposed modification. (MPEP § 2143.01) In the present case, substituting the fastener of Andre would render Hansen unsatisfactory for its intended purpose. One of the stated benefits of the Hansen binding is that the instep elements are continuously adjustable. As stated in column 4, lines 66-67, "adjustments [of both instep straps] are thus possible continuously rather than

step-by-step.” Unlike the continuously-adjustable strap system of Hansen, the fastener of Andre utilizes a hook to be inserted in one of a plurality of holes. Therefore, each hole defines a discrete and singular location for the hook which thereby defines a discrete width of the instep portion. Given that continuous adjustability is an important attribute of Hansen, one of ordinary skill in the art would not be motivated to substitute the continuously adjustable straps of Hansen with the discrete fastener system of Andre.

Furthermore, substituting the closure mechanism of Hansen with that of Andre would frustrate the purpose of Hansen for another reason. Another object of the Hansen invention is to facilitate adjustment and insertion of a boot in the snowboard binding. For example, Hansen’s description of the prior art states “the skier must bend backwards and *thread the belt strap with his gloves into the closure buckles*, which is not always possible with an iced up binding. Viewed as a whole, therefore, these *known bindings are quite cumbersome and uncomfortable to handle.*” (column 1, lines 45-50, emphasis added) Additionally, in the detailed description of the invention, Hansen states that one of the benefits of his invention is that “a complicated threading of straps or toothed belts into locking buckles is unnecessary.” (column 2, lines 58-60) These statements indicate that Hansen viewed prior art closure mechanisms such as the one described by Andre as “complicated” and “cumbersome.” On the other hand, the invention of Hansen was primarily directed toward eliminating these “complicated” and “cumbersome” mechanisms in order to facilitate binding and adjustment. Hansen’s discussion of the method of adjusting the instep portions 5, 6 demonstrates the relative ease of use. Column 4, lines 61-65 states: “If loop 11 is pulled in the direction of arrow 31, then the effective length of the instep straps 8, 9 shortens, whereby the instep elements 5, 6 overlap further and thus make the binding tighter. Conversely, by gently tilting the strap buckles 27, 28, the length of the instep straps 8, 9 can be increased.” This description highlights the ease of use, *i.e.*, tightening or loosening the instep portion can be accomplished with one easy motion. Simply pulling loop 11 will tighten both instep straps 8, 9 and thus the binding. “Gently” tilting the strap buckles 27, 28 likewise loosens the instep portion. Thus it is evident that ease of adjustment is an important aspect of Hansen. However, if the securing apparatus of Andre is substituted into the mounting strap of Hansen as stated in the Office Action, tightening and loosening the instep portion would be considerably more complicated. Instead of the simple, single-handed, linear motion required in Hansen, the user would have to hold one strap with one hand and use the other hand to engage the hook into one of the holes. The requirement to use two – presumably gloved – hands to precisely manipulate a small hook in order to engage a small hole is significantly more difficult than simply pulling a loop or “gently” lifting a buckle edge. Because one of the goals

of Hansen was to require only comparatively gross movements to facilitate use, substituting the closure mechanism of Andre would frustrate the purpose of Hansen.

Thus, because substituting the fasteners of Andre into the invention of Hansen would frustrate two purposes of Hansen (continuous adjustability and ease of closure), Applicants submit that a *prima facie* case of obviousness has not been presented. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 12 is rejected under 35 U.S.C. §103 as being unpatentable over Hansen. Claims 9 and 21 are rejected under 35 U.S.C. §103 as being unpatentable over Hansen in view of Bumgarner. Without acceding to the propriety of the rejections, claims 9, 12 and 21 are believed to be patentable at least for the same reasons that their respective independent claims are believed allowable and the rejection of these claims should be withdrawn.

Applicants furthermore amend claims 23 and 56 to correct antecedent basis in the claims.

### CONCLUSION

In view of the foregoing remarks, this application should be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

No fee is believed due. If the fee is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted  
*Jake Carpenter, et al., Applicants*

By:



Neil P. Ferraro, Reg. No. 39,188  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2211  
Tel. No.: (617) 720-3500  
Attorneys for Applicants

Date: August 27, 2002  
x10/01/02

MARKED-UP CLAIMS

1. (Amended) A binding strap for securing a snowboard boot within a binding baseplate, the binding strap being mountable to the baseplate by a mounting strap and further being releasably connectable to an engagement strap extending from the baseplate, the binding strap comprising:

a flexible binding strap member configured and arranged to be [releasably] connected to the engagement strap to adjust tightening of the binding strap about the boot when the boot is in the binding [and to engage the snowboarding boot], said flexible binding strap member including a pocket which is configured and arranged to movably receive a first end of the mounting strap therein.

13. (Amended) A strap for engaging a snowboarding boot, the strap being securable to a mounting strap and further being releasably connectable to an engagement strap, the strap comprising:

a flexible strap member configured and arranged to be [releasably] connected to the engagement strap to adjust the relative positions of the flexible strap member and the engagement strap and to [engage] conform at least the flexible strap member to a portion of the surface of the snowboarding boot, said flexible strap member including a pocket which is configured and arranged to movably receive a first end of the mounting strap therein.

23. (Twice Amended) A strap for engaging a snowboarding boot, the strap comprising:

a boot-engaging strap member configured and arranged to engage with a front portion of the snowboarding boot;

a mounting strap having a first end securable to said boot-engaging strap member; and wherein said boot-engaging strap member and said mounting strap are moveable relative to each other so that the length of said [binding] strap is selectively adjustable by a user; and wherein said mounting strap is releasably securable to said boot-engaging strap member by at least one fastener which extends through at least one of a plurality of holes disposed in at least one of said boot-engaging strap member and said mounting strap.

56. (Amended) A binding strap for securing a snowboarding boot within a binding base, the binding strap being mountable to the base and releasably connectable to an engagement strap extending from the base, the binding strap comprising:

a boot-engaging strap member configured and arranged to be releasably connected to the engagement strap and to secure the snowboarding boot to the binding;

a mounting strap having a first section releasably securable to said boot-engaging strap member and a second section configured and arranged to engage the binding base; and

at least two engagement elements to engage the mounting strap with the boot-engaging strap;

wherein said boot-engaging strap member and said mounting strap are moveable relative to each other so that the length of said binding strap is selectively adjustable by a user, at least one of said boot-engaging strap member and said mounting strap having a plurality of adjustment holes, each hole being adapted to receive one of the at least two engagement elements therethrough to adjustably engage the first section of said mounting strap with said [binding] boot-engaging strap member.